



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4196

by Rep. Charles E. Meier

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.135

was 415 ILCS 5/3.94

Amends the Environmental Protection Act. Provides that "coal combustion by-product" means coal combustion waste when used as a functionally equivalent substitute for agricultural lime or mined gypsum (calcium sulfate dihydrate) as a soil conditioner, amendment, fertilizer, or other agricultural purposes when using appropriate agronomic rates.

LRB099 11565 MGM 33127 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 3.135 as follows:

6 (415 ILCS 5/3.135) (was 415 ILCS 5/3.94)

7 Sec. 3.135. Coal combustion by-product; CCB.

8 (a) "Coal combustion by-product" (CCB) means coal  
9 combustion waste when used beneficially in any of the following  
10 ways:

11 (1) The extraction or recovery of material compounds  
12 contained within CCB.

13 (2) The use of CCB as a raw ingredient or mineral  
14 filler in the manufacture of the following commercial  
15 products: cement; concrete and concrete mortars;  
16 cementious products including block, pipe and  
17 precast/prestressed components; asphalt or cementious  
18 roofing products; plastic products including pipes and  
19 fittings; paints and metal alloys; kiln fired products  
20 including bricks, blocks, and tiles; abrasive media;  
21 gypsum wallboard; asphaltic concrete, or asphalt based  
22 paving material.

23 (3) CCB used (A) in accordance with the Illinois

1 Department of Transportation ("IDOT") standard  
2 specifications and subsection (a-5) of this Section or (B)  
3 under the approval of the Department of Transportation for  
4 IDOT projects.

5 (4) Bottom ash used as antiskid material, athletic  
6 tracks, or foot paths.

7 (5) Use in the stabilization or modification of soils  
8 providing the CCB meets the IDOT specifications for soil  
9 modifiers.

10 (6) CCB used as a functionally equivalent substitute  
11 for agricultural lime or mined gypsum (calcium sulfate  
12 dihydrate) as a soil conditioner, amendment, fertilizer,  
13 or other agricultural purposes when using appropriate  
14 agronomic rates.

15 (7) Bottom ash used in non-IDOT pavement sub-base or  
16 base, pipe bedding, or foundation backfill.

17 (8) Structural fill, designed and constructed  
18 according to ASTM standard E2277-03 or Illinois Department  
19 of Transportation specifications, when used in an  
20 engineered application or combined with cement, sand, or  
21 water to produce a controlled strength fill material and  
22 covered with 12 inches of soil unless infiltration is  
23 prevented by the material itself or other cover material.

24 (9) Mine subsidence, mine fire control, mine sealing,  
25 and mine reclamation.

26 (a-5) Except to the extent that the uses are otherwise

1 authorized by law without such restrictions, the uses specified  
2 in items (a) (3) (A) and (a) (7) through (9) shall be subject to  
3 the following conditions:

4 (A) CCB shall not have been mixed with hazardous waste  
5 prior to use.

6 (B) CCB shall not exceed Class I Groundwater Standards  
7 for metals when tested utilizing test method ASTM D3987-85.  
8 The sample or samples tested shall be representative of the  
9 CCB being considered for use.

10 (C) Unless otherwise exempted, users of CCB for the  
11 purposes described in items (a) (3) (A) and (a) (7) through  
12 (9) of this Section shall provide notification to the  
13 Agency for each project utilizing CCB documenting the  
14 quantity of CCB utilized and certification of compliance  
15 with conditions (A) and (B) of this subsection.  
16 Notification shall not be required for users of CCB for  
17 purposes described in items (a) (1), (a) (2), (a) (3) (B),  
18 (a) (4), (a) (5) and (a) (6) of this Section, or as required  
19 specifically under a beneficial use determination as  
20 provided under this Section, or pavement base, parking lot  
21 base, or building base projects utilizing less than 10,000  
22 tons, flowable fill/grout projects utilizing less than  
23 1,000 cubic yards or other applications utilizing less than  
24 100 tons.

25 (D) Fly ash shall be managed in a manner that minimizes  
26 the generation of airborne particles and dust using

1 techniques such as moisture conditioning, granulating,  
2 inground application, or other demonstrated method.

3 (E) CCB is not to be accumulated speculatively. CCB is  
4 not accumulated speculatively if during the calendar year,  
5 the CCB used is equal to 75% of the CCB by weight or volume  
6 accumulated at the beginning of the period.

7 (F) CCB shall include any prescribed mixture of fly  
8 ash, bottom ash, boiler slag, flue gas desulfurization  
9 scrubber sludge, fluidized bed combustion ash, and stoker  
10 boiler ash and shall be tested as intended for use.

11 (b) To encourage and promote the utilization of CCB in  
12 productive and beneficial applications, upon request by the  
13 applicant, the Agency shall make a written beneficial use  
14 determination that coal-combustion waste is CCB when used in a  
15 manner other than those uses specified in subsection (a) of  
16 this Section if the applicant demonstrates that use of the  
17 coal-combustion waste satisfies all of the following criteria:  
18 the use will not cause, threaten, or allow the discharge of any  
19 contaminant into the environment; the use will otherwise  
20 protect human health and safety and the environment; and the  
21 use constitutes a legitimate use of the coal-combustion waste  
22 as an ingredient or raw material that is an effective  
23 substitute for an analogous ingredient or raw material.

24 The Agency's beneficial use determinations may allow the  
25 uses set forth in items (a)(3)(A) and (a)(7) through (9) of  
26 this Section without the CCB being subject to the restrictions

1 set forth in subdivisions (a-5)(B) and (a-5)(E) of this  
2 Section.

3 Within 90 days after the receipt of an application for a  
4 beneficial use determination under this subsection (b), the  
5 Agency shall, in writing, approve, disapprove, or approve with  
6 conditions the beneficial use. Any disapproval or approval with  
7 conditions shall include the Agency's reasons for the  
8 disapproval or conditions. Failure of the Agency to issue a  
9 decision within 90 days shall constitute disapproval of the  
10 beneficial use request. These beneficial use determinations  
11 are subject to review under Section 40 of this Act.

12 Any approval of a beneficial use under this subsection (b)  
13 shall become effective upon the date of the Agency's written  
14 decision and remain in effect for a period of 5 years. If an  
15 applicant desires to continue a beneficial use after the  
16 expiration of the 5-year period, the applicant must submit an  
17 application for renewal no later than 90 days prior to the  
18 expiration. The beneficial use approval shall be automatically  
19 extended unless denied by the Agency in writing with the  
20 Agency's reasons for disapproval, or unless the Agency has  
21 requested an extension for review, in which case the use will  
22 continue to be allowed until an Agency determination is made.

23 Coal-combustion waste for which a beneficial use is  
24 approved pursuant to this subsection (b) shall be considered  
25 CCB during the effective period of the approval, as long as it  
26 is used in accordance with the approval and any conditions.

1           Notwithstanding the other provisions of this subsection  
2           (b), written beneficial use determination applications for the  
3           use of CCB at sites governed by the federal Surface Mining  
4           Control and Reclamation Act of 1977 (P.L. 95-87) or the rules  
5           and regulations thereunder, or by any law or rule or regulation  
6           adopted by the State of Illinois pursuant thereto, shall be  
7           reviewed and approved by the Office of Mines and Minerals  
8           within the Department of Natural Resources pursuant to 62 Ill.  
9           Adm. Code §§ 1700-1850. Further, appeals of those  
10          determinations shall be made pursuant to the Illinois  
11          Administrative Review Law.

12          The Board shall adopt rules establishing standards and  
13          procedures for the Agency's issuance of beneficial use  
14          determinations under this subsection (b). The Board rules may  
15          also, but are not required to, include standards and procedures  
16          for the revocation of the beneficial use determinations. Prior  
17          to the effective date of Board rules adopted under this  
18          subsection (b), the Agency is authorized to make beneficial use  
19          determinations in accordance with this subsection (b).

20          The Agency is authorized to prepare and distribute guidance  
21          documents relating to its administration of this Section.  
22          Guidance documents prepared under this subsection are not rules  
23          for the purposes of the Illinois Administrative Procedure Act.

24          (Source: P.A. 97-510, eff. 8-23-11.)